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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-8346-2015

Date of decision : 08.02.2017

Asha Rani

... Petitioner

Versus

Commissioner, Jalandhar Division, Jalandhar and another

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Rajesh Gupta, Advocate
for the petitioner.

Ms. Monica Chhibber Sharma, DAG, Punjab.

AMIT RAWAL, J. (ORAL)

The petitioner being vendee in pursuance to the registered sale deed dated 22.11.2010 is aggrieved of the impugned order dated 21.03.2014 (Annexure P-5) dismissing the appeal filed against the order dated 15.11.2012 (Annexures P-3), whereby he has been called upon to pay a sum of ₹ 3,82,800/- on account of deficiency in stamp duty.

Mr. Rajesh Gupta learned counsel appearing on behalf of the petitioner submits that the aforementioned sale deed was executed for a residential plot. However, notice upon the petitioner qua deficiency was served after two years of the registration of the document on the premise that it was a commercial property. The information given to the Department, which is reiterated from the perusal of Annexure P-13 sought under the Right to Information Act, was that the khasra number in respect of the sale deed is not a commercial property, but yet was not taken care, thus, the

orders are totally erroneous and capricious. The alleged inquiry report (Annexure R-3) is not on the basis of the independent evidence, but a farcical exercise, much less, is not in consonance with the *ratio decidendi* culled out by the judgment of Division Bench of this Court in "Gauri Singla V/s State of Haryana and others" 2009 (1) RCR (Civil) 293.

Ms. Monica Chhibber Sharma, DAG, Punjab submits that the inquiry report leaves no manner of doubt that the market price of the property was much higher than the one shown by the petitioner and, therefore, recovery of stamp duty and registration fees was justified.

I have heard the learned counsel for the parties and appraised the paper book and of the view that the alleged inquiry report relies upon by the State Counsel only reveals with regard to the deed bearing No.2515 dated 04.11.2011, whereas the sale deed is dated 22.11.2010. For the sake of brevity, the relevant part of the inquiry report (Annexure R-3) reads as under:-

"On the above noted subject, according to the letter under reference, as per the record of Circle Patwari, Garhshankar sport inspection of land concerning deed No.2515 dated 4-11-2011 was conducted. As per the above noted sale deed 1 kanal 1 marla of the land being 191/2880 share out of 16 kanals Khata No.395/420 Khasra No.82//2/2/3 (3-8), 3(2-0), 8(5-14), 9/1 (2-11), 13 (3-3), situated at Garhshankar H.B. No.143 vide jamabandi 2006-07, Tehsil Garhshankar has been sold in favour of Asha Rani wife of Jagtar Singh son of Swarna Ram resident of Deep Colony Ward No.11, Anandpur Sahib Road, Garhshankar District Hoshiarpur, for ₹ 9,00,000/-. This area is situated on the main Road from Garhshankar to Anandpur Sahib. This area is situated about 2 to 3 kilometers from Banga Chowk, Shri Anand Sahib Road, Garhshankar

Boundary of Village Dugri. This area is divided in plots. This area is entered at Serial No.59(4) of 8 in the Rate list of 2010-2011. This area is situated on the Anandpur Sahib Main Road. This sale deed is for land two acres away from link road @ 66,00,000/- per acre as Agricultural Irrigated by Tubewell land.

Whereas the land is situated on the Anandpur Sahib main road. The value of this area from Anandpur Sahib to 100' is ₹ 3,30,000/- per marla and beyond 100' remaining land should be valued at the residential rates. Recovery of stamp duty and Registration fee as per the rates assessed by the Audit Party is correct."

On going through the aforementioned inquiry report, it is evident that as per the procedure indicated in the provisions of Section 47-A of the Stamp Act, the Collector after receipt of the report has not conducted independent inquiry, but accepted the same as a *sermon* which is not the scope of law. The aforementioned view of mine is reiterated from the judgment (cited supra) rendered by the Hon'ble Division Bench of this Court by relying upon the judgments in **"Chamkaur Singh V/s State of Punjab" AIR 1991 Punjab and Hayana 26 and "State of Punjab V/s Mohabir Singh" 1996 (1) RR 588.** The operative part of the findings reads thus:-

"7. In the present case, neither the Collector nor the Commissioner has adverted to any independent evidence to return a finding in respect of the market value of the land. The basis of the order is Collector's rate of the land in dispute as ₹ 9 Lac per acre. Neither there is any reference to any sale instance in the neighbourhood nor any other evidence, which is without any statutory support, cannot be given effect to in view of the judgments referred to above. Thus, the impugned orders passed by the Collector and the Commissioner, suffer

from patent illegality and material irregularity.”

In my view, the arguments of Ms. Monica Chhibber Sharma, DAG, Punjab, by relying upon the aforementioned inquiry report and supporting the impugned order, are not sustainable, much less, wholly misplaced. The Authorities below have not undertaken any independent exercise in ascertaining the rates. The demand is not backed by any foundation and resultantly, the same is hereby quashed.

With the aforesaid observations, the present writ petition stands allowed.

08.02.2017
Yogesh Sharma

(AMIT RAWAL)
JUDGE

	✓
Whether speaking/reasoned	Yes/ No
	✓
Whether Reportable	Yes/ No